

REMARKS

In response to the Advisory Action mailed August 21, 2007, Applicants request entry of the foregoing Amendment in consideration of the attached declaration under 37 CFR §1.132.

Claims 2 and 4-15 (all pending claims) remain rejected under 35 U.S.C. §103 over Brunner taken with Gutsche. Reconsideration of this rejection is again respectfully requested. In order to expedite prosecution, and for business reasons, the claims have been amended to be of a scope as former independent claim 15, reciting a specific zinc aluminate mixed oxide catalyst of the formula set forth in the claim.

Brunner discloses a method for pretreating crude oils and raw fats for the production of fatty acid esters. Crude oils containing free fatty acid and slimy substances are treated with a mixture containing alcohol and concentrated acid. Subsequent to separation of the slimy substances as a result of this treatment, the deslimed oil is transesterified with an "alkaline catalyst" and methanol. See, for example, column 6, lines 35-37. Patentees indicate that alkaline transesterification with methanol can be performed into steps or stages, see column 5, lines 10-20. Essentially no additional detail of the catalyst is given. Thus, Brunner does not suggest the use of a zinc aluminate catalyst such as that presently claimed.

Gutsche does not remedy the deficiencies of the primary reference. Gutsche discloses a process for esterification or transesterification in a discontinuous, heterogeneously catalyzed production of products, and notes that the reaction may be an esterification reaction "catalyzed by ion exchangers containing sulfonic acid groups." (See column 1, lines 50-53) Patentees continue that "any solid catalysts are suitable for the purposes of the invention" however, patentees only exemplify acidic ion exchangers, for example, amberlite, in the examples.

Thus, even a combination of these references fails to suggest the present claims. The disclosure of alkaline catalyst such as potassium hydroxide in the primary reference, and "any solid catalyst...basic or acidic, organic or inorganic, ionic or acidic ionic exchangers or acidic aluminum or zeolite or specially prepared bleaching earths" in the secondary reference, with exemplification only of acidic ion exchanger resins, does not suggest to one of ordinary skill in the art the use of the particular zinc aluminate of the claims. Moreover, the patentability of a process employing such catalysts is clearly established by the attached declaration under 37 CFR §1.132, which shows that zinc aluminates enable an unexpectedly better yield in simultaneous

esterification/transesterification, versus the specific acidic ion exchanger of the secondary reference examples. In particular, the catalyst of the secondary reference is far weaker in transesterification than the zinc aluminate of the present invention and is far more active, even where catalyst inhibitors were present. Such is clearly not expected by one of ordinary skill in the art. Indeed, the Office Action suggests that one of ordinary skill in the art would have expected "good" results with the process of the secondary reference; clearly, one of ordinary skill in the art would expect any of the broadly disclosed claims of catalysts to be roughly equivalent and certainly would not have expected the present catalyst, not exemplified or even specifically described in the secondary reference, to exhibit superior performance.

It is accordingly respectfully submitted that one of ordinary skill in the art would not have found it obvious to employ the zinc aluminate of the claims, for example, in the process of the primary reference. Reconsideration of this rejection under 35 U.S.C. §103 is therefore respectfully requested.

No fee is believed due with this response, however, the Commissioner is hereby authorized to charge any fees associated with this response or credit any overpayment to Deposit Account No. 13-3402.

Respectfully submitted,

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